S.B. CRIMINAL REVISION PETITION NO.1066/2004.

Ramesh Kumar
Vs.
State

Date of order : 4/8/2006.

HON'BLE MR.JUSTICE HARBANS LAL

Mr. Sanjay Singhal for the petitioner.
Mr. Arun Sharma P.P. for the State.

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This revision petition under Section 397 read with Section 401 Cr.P.C. is directed against the order dated 6/10/2004 passed by the learned Special Judge (Women Atrocites and Dowry Cases) cum-Additional Sessions Judge, Jaipur City, Jaipur in Sessions Case No.117/2003 whereby the charges for offences under Sections 498A and 306 I.P.C. have been framed against the petitioner.

The relevant facts giving rise to this petition and necessary for its disposal are that a criminal case came to be registered on the basis of the F.I.R. lodged by one Anandilal at P.S. Rainwal for offences under Sections 498A and 306 I.P.C.

After investigation, charge-sheet was filed and the case was committed to the court of sessions for trial.

After hearing learned counsel for the parties and on the basis of the materials filed with the charge-sheet under Section 173(2) Cr.P.C. the trial court framed charges for the aforesaid offences against the petitioner vide order dated 6/10/2004 which order is under challenge in this petition.

After hearing learned counsel for the petitioner, learned Public Prosecutor for the State and upon perusal of the impugned-order as well as record which has been sent for from the concerned court for perusal, I do not find any error, illegality or impropriety in the impugned-order passed by the learned court below. The order impugned is passed on proper consideration of the materials on record and calls for no interference in the limited scope of revision.

Consequently, this petition being not fit for admission is hereby dismissed at this stage.

(HARBANS LAL), J.

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Petitioner Ram Sahay who is a Railway employee under the Union of Inida has sought stay of the judgment of conviction recorded against him by the trial court on 9/9/2003 in Criminal Case No.495/1989 for offences u/S.100 of the Railways Act, 1989 and Ss.337, 338 and 304-A I.P.C. which judgment and order of conviction and sentence has been upheld by the learned Special Judge (Sati Niwaran) Rajasthan & Additional Sessions Judge, Jaipur in Criminal Appeal No.122A/2003. Thereafter, the department has removed him from service. His sentence has already been suspended by the co-ordinate Bench of this Court vide order dated 4/2/2005 after admission of revision petition.

Learned counsel for the petitioner has submitted that in view of the pronouncement of the Hon'ble Apex Court in the case of **Ram Narang Vs. Ramesh Narang : (1995) 2 SCC 513** and judgment of the Division Bench of this Court in **Kanhaiya Vs. State (DB Cr.Misc.Application No.652/2001) in DB Criminal Appeal No.733/2000**, where the conviction is capable of execution, the same may be stayed on a specific request being made in this behalf by the convict in appropriate cases for reasons to be recorded in writing. He has also submitted that the offences found proved against the petitioner does not involve moral 1477/2006.

turpitude. His revision is not likely to be heard and decided in near future. In the instant case, his conviction is capable of execution as it has entailed his termination from service. He has, therefore, prayed that the conviction of the petitioner may also

be stayed so that he may not be visited with further adverse consequences flowing from the order of termination and he may if possible and if so advised seek remedy in this regard by taking recourse to appropriate proceedings as per law.

Learned Public Prosecutor has opposed the application but he could neither point out anything from the record nor could cite any authority taking a contrary view in such matters. He has simply submitted that the revision petition itself may be heard and disposed of at an early date.

I have considered the rival submissions made at the bar.

Keeping in view the settled law in this behalf by the authoritative pronouncements of the Hon'ble Apex Court as well as of this Court and the conviction recorded against the petitioner being capable of execution, I deem it just and proper to stay the conviction in the interest of justice.

Consequently, the application is allowed and the conviction of petitioner Ram Sahay is hereby stayed till the disposal of his revision petition.

(HARBANS LAL), J.

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